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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,560	09/22/2003	Yuuichirou Tsuruta	14470.0010US01	9971
23552	7590	07/13/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			GREENE, JASON M	
			ART UNIT	PAPER NUMBER
			1724	
DATE MAILED: 07/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/667,560

Applicant(s)

TSURUTA ET AL.

Examiner

Jason M. Greene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) 3-6, 8-10 and 13-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/19/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. Figure 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Pasturczak.

With regard to claim 1, Pasturczak discloses an air cleaner device for a vehicle in which an engine (10) is mounted on a vehicle body frame (not shown), wherein the air cleaner device includes a main air cleaner (16) and a sub air cleaner (40) which is coupled to the main air cleaner (by conduit 80), and wherein the sub air cleaner is arranged parallel to the main air cleaner in a longitudinal direction of the vehicle body frame in Fig. 1 and col. 1, line 5 to col. 3, line 44.

With regard to claim 11, Pasturczak discloses an air cleaner device for a vehicle in which an engine (10) is mounted on a vehicle body frame (not shown), wherein the air cleaner device includes a main air cleaner (16) and a sub air cleaner (40) which is coupled to the main air cleaner (by conduit 80), and means (the mount structures) for arranging the sub air cleaner in parallel with the main air cleaner in a longitudinal direction of the vehicle body frame in Fig. 1 and col. 1, line 5 to col. 3, line 44.

5. Claims 1, 2, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Koske.

With regard to claim 1, Koske discloses an air cleaner device for a vehicle in which an engine (30) is mounted on a vehicle body frame (not shown), wherein the air cleaner device includes a main air cleaner (under hood air cleaner 25) and a sub air cleaner (air intake grille 10 and/or cowl mounted air cleaner 50) which is coupled to the main air cleaner (by conduit 20), and wherein the sub air cleaner is arranged parallel to the main air cleaner in a longitudinal direction of the vehicle body frame in Figs. 1 and 3A-5 and col. 3, line 11 to col. 4, line 29. The sub air cleaners (intake grille 10 and/or cowl mounted air cleaner 50) are seen as being arranged parallel to the main air cleaner in a longitudinal direction of the vehicle body frame since the sub air cleaners are offset from the main air cleaner in the width direction. The air intake grille 10 is seen as being a sub air cleaner since it separates debris from the air flowing therethrough. Koske explicitly teaches air entering the cowl mounted air cleaner 50 and subsequently passing into the under hood main air cleaner in Fig. 5.

With regard to claim 2, Koske teaches the sub air cleaners (grille 10 and cowl mounted air cleaner 50) being arranged outside the vehicle body frame in the longitudinal direction in Fig. 1. Specifically, since the grille 10 is arranged on the side of the cab and the cowl mounted air cleaner is mounted to the cowl, the sub air cleaners are arranged outside the vehicle body frame.

With regard to claim 11, Koske discloses an air cleaner device for a vehicle in which an engine (30) is mounted on a vehicle body frame (not shown), wherein the air cleaner device includes a main air cleaner (under hood air cleaner 25) and a sub air cleaner (air intake grille 10 and/or cowl mounted air cleaner 50) which is coupled to the main air cleaner (by conduit 20), and means (the mount structures) for arranging the sub air cleaner in parallel with the main air cleaner in a longitudinal direction of the vehicle body frame in Figs. 1 and 3A-5 and col. 3, line 11 to col. 4, line 29. The sub air cleaners (intake grille 10 and/or cowl mounted air cleaner 50) are seen as being arranged parallel to the main air cleaner in a longitudinal direction of the vehicle body frame since the sub air cleaners are offset from the main air cleaner in the width direction.

With regard to claim 12, Koske teaches the sub air cleaners (grille 10 and cowl mounted air cleaner 50) being arranged outside the vehicle body frame in the longitudinal direction in Fig. 1. Specifically, since the grille 10 is arranged on the side of the cab and the cowl mounted air cleaner is mounted to the cowl, the sub air cleaners are arranged outside the vehicle body frame.

6. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Koske.

Koske discloses a vehicle capable of off-road use comprising a vehicle body frame (not shown), an engine (30) mounted to the frame, a main air cleaner (under hood air cleaner 25), and a sub air cleaner (grille 10 and/or cowl mounted air cleaner 50) that is coupled to the main air cleaner, wherein the sub air cleaner is arranged

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parallel to the main air cleaner in a longitudinal direction of the vehicle body frame, and wherein the sub air cleaner is arranged outside the vehicle body frame in the longitudinal direction in Figs. 1 and 3A-5 and col. 3, line 11 to col. 4, line 29. The sub air cleaners (intake grille 10 and/or cowl mounted air cleaner 50) are seen as being arranged parallel to the main air cleaner in a longitudinal direction of the vehicle body frame since the sub air cleaners are offset from the main air cleaner in the width direction. Since the grille 10 is arranged on the side of the cab and the cowl mounted air cleaner is mounted to the cowl, the sub air cleaners are arranged outside the vehicle body frame.

***Allowable Subject Matter***

7. Claims 3-6, 8-10 and 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With regard to claims 3, 4, 8, 13 and 14, the prior art made of record does not teach or fairly suggest the air cleaners of claims 1, 2, 11 or 12 or the off-road vehicle of claim 7 wherein an intake port which takes outside air into the air cleaner device is formed in the main air cleaner and a connecting port between the sub air cleaner and the main air cleaner faces the intake port in an opposed manner. Specifically, since the sub air cleaners of Pasturczak and Koske operate as pre-cleaners, Pasturczak and

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Koske do not disclose the main air cleaner having a separate intake port for admitting outside air into the main air cleaner.

With regard to claims 5, 9 and 15, Pasturczak discloses the sub air cleaner (40) being arranged at a front portion of the vehicle body (integral with the radiator) in Fig. 1 and col. 1, line 5 to col. 3, line 44. Koske teaches the grille 10 being arranged on the side of the cab just in front of the door 7 and the cowl mounted air cleaner being mounted on the cowl in Fig. 1.

The prior art made of record does not teach or fairly suggest the air cleaners of claims 1 or 11 or the off-road vehicle of claim 7 wherein the sub air cleaner is arranged outside the vehicle body frame and inside rear wheels of the vehicle. The Examiner notes that the phrase "inside rear wheels of the vehicle" has been interpreted to mean an area formed between rear wheels of the vehicle, as shown in instant Fig. 2.

With regard to claims 6, 10 and 16, Pasturczak discloses the main air cleaner (16) being mounted on the engine and the sub air cleaner (40) being mounted on the vehicle as an integral part of the radiator) in Fig. 1 and col. 1, line 5 to col. 3, line 44. Koske teaches the main air cleaner (25) being mounted on the engine, the grille 10 being mounted on the side of the cab, and the cowl mounted air cleaner being mounted on the cowl in Fig. 1.

The prior art made of record does not teach or fairly suggest the air cleaners of claims 1 or 11 or the off-road vehicle of claim 7 wherein the main air cleaner is mounted



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on the vehicle body frame and a rear portion of the sub air cleaner is mounted on the vehicle body frame.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Petersen, Kraina, Brown, Lidstone, Herman et al., Tanaka, Mizuta et al., Hattori et al., Momosaki, Tateshima et al., Miyajima et al., Greeson, Greif et al., Tsutsumi et al., Inoue et al., Dewey and JP 2003-65032 references disclose similar air cleaners.

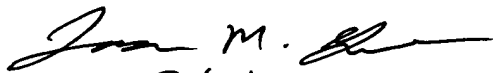
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Greene whose telephone number is (571) 272-1157. The examiner can normally be reached on Monday - Friday (9:00 AM to 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason M. Greene  
Examiner  
Art Unit 1724

  
7/11/05

jmg  
July 11, 2005